

thereof, has been stopped because his or her estate equals or exceeds \$1,500, the Veterans Services Officer may recommend the payment of so much of the benefit otherwise payable as is necessary to provide for the needs of dependent parent or parents. (See §§ 13.74(b) and 13.108(b).)

(b) *Dependent parents.* When the compensation of a veteran paid to his or her fiduciary includes an additional amount for a dependent parent or parents and the fiduciary neglects or refuses to make an equivalent contribution for their support, the Veterans Services Officer may recommend the apportionment to the parent or parents of the additional amount.

(c) *Payments withheld because of fiduciary's failure to properly administer veteran's estate.* When payments of compensation, pension or emergency officers' retirement pay in behalf of a veteran have been stopped because of the fiduciary's failure or inability to properly account or otherwise administer the estate, the Veterans Services Officer may recommend the apportionment to the veteran's spouse, child or dependent parent of any benefit not paid under an institutional award or to a custodian-in-fact.

[40 FR 54248, Nov. 21, 1975, as amended at 51 FR 26158, July 21, 1986]

§ 13.71 Payment of cost of veteran's maintenance in institution.

(a) *By institutional award.* (1) The payment of part of compensation, pension or emergency officers' retirement pay for the cost of a veteran's hospital treatment, institutional or domiciliary care in an institution operated by a political subdivision of the United States may be authorized as provided in paragraph (a)(2) of this section when:

(i) The veteran is rated incompetent by the Department of Veterans Affairs.

(ii) It has been determined the veteran is legally liable for the cost of his or her maintenance, and

(iii) The institution's representative has asserted or probably will assert a claim for full maintenance costs.

(2) Subject to these conditions and the further condition that the responsible official of the institution or political subdivision will agree not to assert against Department of Veterans Affairs

benefits any further claim for maintenance during the veteran's lifetime, the Veterans Services Officer may agree with such official to the payment of the veteran's benefits through an institutional award to be applied to:

(i) A monthly amount determined by the Veterans Services Officer to be needed for the veteran's personal use,

(ii) An amount to be agreed upon to be accumulated to provide for the veteran's rehabilitation upon release from the institution, and

(iii) So much of the amount of the benefit as remains not exceeding the amount the Veterans Services Officer shall determine to be the proper charge as fixed by statute or administrative regulation, to the cost of the veteran's maintenance.

(3) Upon execution of an agreement as provided in paragraph (a)(2) of this section, the Veterans Services Officer may certify to the Adjudication Division the total amount to be released to the chief officer of the institution.

(b) *By care and maintenance award.* When payment of compensation, pension or emergency officers' retirement pay in behalf of a veteran rated incompetent by VA, who has no spouse or child and is being furnished hospital treatment, institutional or domiciliary care by a political subdivision of the United States, has been stopped because his or her estate has reached \$1,500, the Veterans Services Officer may certify to the Adjudication Division the amount to be released to the responsible official to pay for the cost of the veteran's current care and maintenance. The amounts paid in such cases shall not exceed the amount of the benefit otherwise payable less any amounts apportioned to dependent parents and in no event exceed the amount which the Veterans Services Officer shall determine to be the proper charge as fixed by statute or administrative regulation. (See §§ 13.74(b) and 13.108(b).)

(Authority: 38 U.S.C. 501)

[40 FR 54248, Nov. 21, 1975, as amended at 51 FR 26158, July 21, 1986]

§ 13.72 Release of funds from Personal Funds of Patients.

Veterans Services Officers may authorize release of funds from Personal

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§ 13.75

Funds of Patients for the needs of veterans and their dependents, including amounts fixed by statute or administrative regulations as the cost of current maintenance of veterans in institutions of the United States or a political subdivision thereof other than Department of Veterans Affairs institutions.

[40 FR 54248, Nov. 21, 1975]

§ 13.73 Transfer of funds from funds due incompetent beneficiaries.

Veterans Services Officers may, when required for the benefit of the veteran and/or the veteran's dependents, authorize the transfer of amounts credited to veterans in Funds Due Incompetent Beneficiaries to Department of Veterans Affairs Personal Funds of Patients accounts or to chief officers of non-Department of Veterans Affairs institutions for the accounts of institutionalized veterans.

[40 FR 54248, Nov. 21, 1975]

§ 13.74 Recommendation for payment.

(a) *General.* When veterans' benefits are discontinued under 38 U.S.C. 5503(b)(1), Veterans Services Officers are delegated authority to recommend apportionments or awards in accordance with paragraphs (b) and (c) of this section.

(b) *Needy dependent parent.* If the veteran's estate is \$4,000 or more, the Veterans Services Officer may authorize payment from Personal Funds of Patients or recommend payment from the veteran's estate for the needs of the dependent parent and for the care and maintenance of the veteran if hospitalized by the United States or a political subdivision thereof other than a Department of Veterans Affairs institution. If the estate is \$2,500 or more but less than \$4,000, the Veterans Services Officer may recommend an apportionment from appropriated funds to the dependent parent or parents, predicated upon need, not to exceed the veteran's discontinued award, and authorize an award to the hospital from Personal Funds of Patients if available, otherwise, the hospital must look to the veteran's estate for payment. If the veteran's estate is less than \$2,500, the Veterans Services Officer may rec-

ommend an apportionment to the dependent parents, predicated upon need, and an award of so much of the balance, if any, of the veteran's discontinued award as is necessary for the current care and maintenance of the veteran, to the hospital.

(c) *No dependents.* If the veteran is hospitalized by the United States or a political subdivision thereof other than a Department of Veterans Affairs institution and has no dependent parent, and the estate is less than \$2,500, the Veterans Services Officer may recommend an award from appropriated funds, not to exceed the amount of the veteran's discontinued award, to the hospital for current care and maintenance. When the veteran's estate is \$2,500 or more, no award from appropriated funds should be made but the Veterans Services Officer may authorize an award from Personal Funds of Patients if available; otherwise, the hospital must look to the veteran's estate for payment.

(d) *Hardship cases.* Veterans Services Officers are authorized, in exceptional cases, to deviate from the criteria stated to avoid hardship.

[40 FR 54249, Nov. 21, 1975]

§ 13.75 Beneficiaries in penal institutions.

(a) *All beneficiaries; 38 U.S.C. 1505(a).* No Department of Veterans Affairs pension may be paid to or for any individual imprisoned in a penal institution as a result of conviction of a felony or misdemeanor for the period beginning 61 days after imprisonment and ending when imprisonment ends.

(b) *Incompetent veterans; 38 U.S.C. 5503 (b)(1).* In addition to paragraph (a) of this section as to payment in pension cases, the provisions of 38 U.S.C. 5503(b)(1) governing payment of compensation, pension or emergency officers' retirement pay to an incompetent veteran are applicable during his or her confinement in a penal institution whether awaiting trial, sentence or after conviction.

[36 FR 19024, Sept. 25, 1971, as amended at 40 FR 54249, Nov. 21, 1975]